

Richard A. Pelley 15732500
PELLEY LAW OFFICES
905 N. Travis Street
Sherman, Texas 75090
(903) 813-4778

UNITED STATES BANKRUPTCY
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:	
GREG WISNER DANA WISNER	CASE NO. 21-41120
DEBTORS	

MOTION TO AVOID JUDICIAL LIEN OF PATRIOT CONCRETE
TO THE HONORABLE JUDGE OF SAID COURT:

NO HEARING WILL BE CONDUCTED ON THIS MOTION/OBJECTION/APPLICATION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

I.

COMES NOW MOVANT, ***Greg Wisner and Dana Wisner***, who is the Debtor in the above-captioned case.

II.

Respondent **Patriot Concrete**, upon information and belief is a corporation organized and existing under the laws of the State of Texas and authorized to do business in Texas, and can be served by and through it's attorney of record, Sam Almasri, 9330 LBJ Freeway, Ste. 120, Dallas, Texas 75243.

III.

This is a motion under 11 USC § 522(f)(1) to avoid a judicial lien (other than judicial lien that secures a debt of a kind that is specified in Section 523(a)(5) upon property owned by the Movant, specifically including, but not limited to Debtor's homestead rights, if any, and all other personal property which the Debtor may have claimed as exempt as set forth on Schedule C of the original petition previously filed or subsequently amended herein (See attached Exhibit "A"). This is a non-possessory, non-purchase money lien.

IV.

Such property is presently held and used primarily for the personal, family, and household use of Movant.

V.

Pursuant to those exemptions specifically set out in the United States Bankruptcy Code, the Constitution of the State of Texas, and the Texas Property Code, Movant has claimed such property as exempt, and no objection to such claim having been made on a timely basis, such property is exempt under 11 USC § 522(l).

VI.

Heretofore, Respondent has obtained a judgment in its favor and against Movant herein in a civil action. Such judgment may have been recorded as a lien against the property of Movant.

VIII.

The Respondent's aforesaid lien upon Movant's property is a judicial lien within the purview of 11 USC §522(f)(1), and impairs Movant's aforesaid exemption within the meaning of 11 USC §522(f).

WHEREFORE, Movant requests the Court issue an order avoiding and cancelling Respondent's aforesaid lien on Movant's exempt property and grant such other and further relief, as the Court may deem just and proper.

Respectfully submitted,

PELLEY LAW OFFICES
905 North Travis Street
Sherman, Texas 75090
(903) 813-4778

/s/Richard A. Pelley
Richard A. Pelley
State Bar I.D. 15732500

CERTIFICATE OF SERVICE

I certify that on the 1st day of September, 2021, a true and correct copy of the annexed/foregoing Motion to Avoid Judicial Lien of Patriot Concrete has been served by U.S. first class mail to:

Debtor:

Greg Wisner
Dana Wisner
1590 Cottonwood Trail
Prosper, Texas 75078

Trustee:

Linda Payne
11700 Preston Road,
Ste. 660-667
Dallas, Texas 75230

Creditors:

Patriot Concrete
c/o Sam Almasri,
9330 LBJ Freeway, Ste. 120,
Dallas, Texas 75243

U. S. Trustee
300 Plaza Tower
110 North College Avenue
Tyler, Texas 75702

/s/Richard A. Pelley
Richard A. Pelley

Fill in this information to identify your case:

Debtor 1	<u>Greg</u> First Name	<u>N.</u> Middle Name	<u>Wisner</u> Last Name
Debtor 2 (Spouse, if filing)	<u>Dana</u> First Name	<u>P.</u> Middle Name	<u>Wisner</u> Last Name
United States Bankruptcy Court for the: <u>EASTERN DISTRICT OF TEXAS</u>			
Case number (if known)	<u>21-41120</u>		

Check if this is an amended filing

Official Form 106C

Schedule C: The Property You Claim as Exempt

04/19

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Using the property you listed on *Schedule A/B: Property* (Official Form 106A/B) as your source, list the property that you claim as exempt. If more space is needed, fill out and attach to this page as many copies of *Part 2: Additional Page* as necessary. On the top of any additional pages, write your name and case number (if known).

For each item of property you claim as exempt, you must specify the amount of the exemption you claim. One way of doing so is to state a specific dollar amount as exempt. Alternatively, you may claim the full fair market value of the property being exempted up to the amount of any applicable statutory limit. Some exemptions--such as those for health aids, rights to receive certain benefits, and tax-exempt retirement funds--may be unlimited in dollar amount. However, if you claim an exemption of 100% of fair market value under a law that limits the exemption to a particular dollar amount and the value of the property is determined to exceed that amount, your exemption would be limited to the applicable statutory amount.

Part 1: Identify the Property You Claim as Exempt

1. Which set of exemptions are you claiming? *Check one only, even if your spouse is filing with you.*

- You are claiming state and federal nonbankruptcy exemptions. 11 U.S.C. § 522(b)(3)
 You are claiming federal exemptions. 11 U.S.C. § 522(b)(2)

2. For any property you list on *Schedule A/B* that you claim as exempt, fill in the information below.

Brief description of the property and line on <i>Schedule A/B</i> that lists this property	Current value of the portion you own	Amount of the exemption you claim	Specific laws that allow exemption
--	--------------------------------------	-----------------------------------	------------------------------------

Brief description: 1590 Cottonwood Trail, Prosper, TX 75078	<u>\$511,000.00</u>	<input type="checkbox"/> _____ <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Const. art. 16 §§ 50, 51, Texas Prop. Code §§ 41.001-002
---	---------------------	---	---

Line from <i>Schedule A/B</i> : <u>1.1</u>	<input type="checkbox"/> _____ <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit
--	---

Brief description: 2016 Porsch C	<u>\$26,000.00</u>	<input type="checkbox"/> _____ <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(9)
Line from <i>Schedule A/B</i> : <u>3.1</u>			

3. Are you claiming a homestead exemption of more than \$170,350?

(Subject to adjustment on 4/01/22 and every 3 years after that for cases filed on or after the date of adjustment.)

- No
 Yes. Did you acquire the property covered by the exemption within 1,215 days before you filed this case?
 No
 Yes

Debtor 1

Greg N. Wisner

Debtor 2

Dana P. Wisner

Case number (if known) 21-41120**Part 2:** Additional Page

Brief description of the property and line on Schedule A/B that lists this property	Current value of the portion you own	Amount of the exemption you claim	Specific laws that allow exemption
Brief description: 2014 Chevy Cruz	Copy the value from Schedule A/B <u>\$8,000.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Check only one box for each exemption Tex. Prop. Code §§ 42.001(a), 42.002(a)(9)
Line from Schedule A/B: <u>3.2</u>			
Brief description: 2019 Ford F150 - Lease	<u>\$0.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(9)
Line from Schedule A/B: <u>3.3</u>			
Brief description: Entertainment Center	<u>\$100.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>6</u>			
Brief description: Couch/sectional	<u>\$250.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>6</u>			
Brief description: Coffee Table	<u>\$500.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>6</u>			
Brief description: End Tables	<u>\$400.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>6</u>			
Brief description: Lamps	<u>\$500.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>6</u>			
Brief description: Dinner Table	<u>\$0.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>6</u>			
Brief description: Dining Chairs	<u>\$300.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>6</u>			

Debtor 1 Greg N. Wisner
Debtor 2 Dana P. Wisner

Case number (if known) 21-41120

Part 2: Additional Page

Brief description of the property and line on Schedule A/B that lists this property	Current value of the portion you own	Amount of the exemption you claim	Specific laws that allow exemption
		Copy the value from Schedule A/B	Check only one box for each exemption
Brief description: Stove/Oven	<u>\$800.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B:	<u>6</u>		
Brief description: Dishwasher	<u>\$200.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B:	<u>6</u>		
Brief description: Microwave	<u>\$50.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B:	<u>6</u>		
Brief description: Refrigerator	<u>\$1,000.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B:	<u>6</u>		
Brief description: Dressers	<u>\$800.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B:	<u>6</u>		
Brief description: Armoire	<u>\$800.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B:	<u>6</u>		
Brief description: Nighstands	<u>\$600.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B:	<u>6</u>		
Brief description: Mirrors	<u>\$300.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B:	<u>6</u>		
Brief description: Beds	<u>\$500.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B:	<u>6</u>		

Debtor 1

Greg N. Wisner

Debtor 2

Dana P. Wisner

Case number (if known) 21-41120**Part 2:** Additional Page

Brief description of the property and line on Schedule A/B that lists this property	Current value of the portion you own	Amount of the exemption you claim	Specific laws that allow exemption
		Copy the value from Schedule A/B	Check only one box for each exemption
Brief description: Television	<u>\$250.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>7</u>			
Brief description: Pictures	<u>\$200.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>8</u>			
Brief description: Figurines	<u>\$300.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(1)
Line from Schedule A/B: <u>11</u>			
Brief description: Clothing	<u>\$340.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(5)
Line from Schedule A/B: <u>12</u>			
Brief description: Ring	<u>\$2,000.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(6)
Line from Schedule A/B: <u>13</u>			
Brief description: Dog	<u>\$0.00</u>	<input type="checkbox"/> <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	Tex. Prop. Code §§ 42.001(a), 42.002(a)(11)